

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

ANDREW McKEVITZ,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:18-cv-00132
)	
SILVER CITY RESOURCES, INC.)	JURY DEMAND
)	
Defendant.)	

PLAINTIFF'S PRETRIAL ORDER

COMES NOW, Andrew McKevez, through counsel, to file this Pretrial Order, and states as follows:

1. Plaintiff has not been able to contact Defendant since Defendant's attorney James Snyder's was granted a motion to withdraw [Doc. 19] on February 25, 2020.
2. Plaintiff filed a Motion for Summary Judgment [Doc. 20] that this Honorable needs to rule in favor of the Plaintiff to expedite this matter because the Defendant has obviously abandoned defending the case.
3. Nevertheless, Plaintiff shall comply with the Scheduling Order.
4. **Jurisdiction:** Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331. The jurisdiction of the Court is not disputed.
5. The pleadings are amended to conform to the pretrial order.

6. Plaintiff's Theory: Plaintiff brings an action against Defendant for violations of the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.* Mr. McKevez received 7 telephone calls from Defendant in violation of the TCPA. Defendant used an automatic telephone dialing system, and Plaintiff's telephone number was registered on the National Do-Not-Call List. The resulting statutory penalties are cumulatively \$21,000.00.

7. Defendant's Theory: Defendant has not brought forth a theory in defense.

8. Issues submitted to the jury:

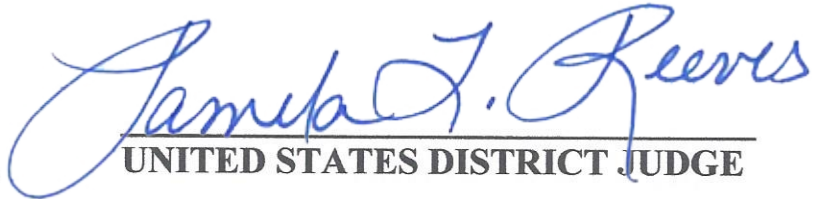
- a. Did the Defendant call the Plaintiff seven (7) times?
- b. Did the Defendant use an automatic telephone dialing system to contact Plaintiff on the seven (7) occasions as defined in the TCPA?
- c. Was the Plaintiff's telephone number on the National Do-Not-Call List?
- d. Did Plaintiff provide consent for Defendant to call Plaintiff?
- e. Were Defendant's actions willful and/or knowing toward Plaintiff?

9. Estimated length or trial: One day. I do not expect Defendant to attend trial.

10. **Possibility of settlement:** None. The Defendant is not to be found.

11. No miscellaneous matters exist that may contribute to the just, speedy and inexpensive determination of the case, except this Honorable Court ruling in the Plaintiff's favor in his Motion for Summary Judgment.

APPROVED FOR ENTRY:


UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND SUBSTANCE:


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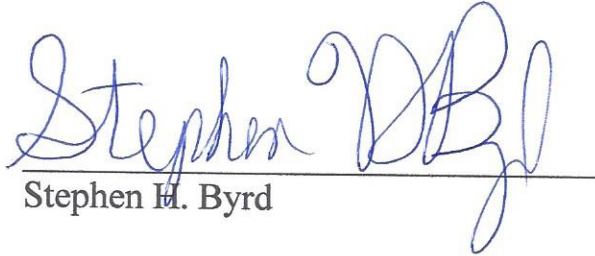
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing has been properly served via CM/ECF system, U.S. Mail, postage prepaid, e-mail, or hand delivered upon the following:

Registered Agent, Terri L. Montheith
6370 W. Flamingo Road
Suite 5M
Las Vegas, Nevada 89103

Registered Agent, Terri L. Montheith
2950 S. Rancho Drive
Suite 204
Las Vegas, Nevada 89102

This the 16th day of August, 2020.


Stephen H. Byrd